



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

has been declared characteristic of a non-continuous easement. *Polden v. v. Bastard*, 4 Best & S. 527, L. R. 1 Q. B. 156; (but compare *Brown v. Alabaster*, L. R. 37 Ch. D. 490); *Morgan v. Meuth*, 60 Mich. 238; *Tooth v. Bryce*, *supra*; *Oliver v. Pitman*, 98 Mass. 46. In support of the principal case, *Foote v. Yarlott*, *supra*.

EVIDENCE—INVOLUNTARY CONFESSION AS IMPEACHING EVIDENCE.—In a prosecution for murder the defendant took the stand as a witness in his own behalf. For the purpose of impeachment the prosecuting attorney was permitted to cross-examine the accused as to the contents of a written involuntary confession, made by him while in the custody of the officers making the arrest. *Held*, this was error because an involuntary confession of guilt is incompetent for any purpose. *Jones v. State* (Neb. 1914) 149 N. W. 327.

The decisions on this point are very few and about evenly divided. In accord with the principal case, and holding that an involuntary confession cannot be used for any purpose whatever, not even to impeach the defendant as a witness, are *Shepherd v. State*, 88 Wis. 185; *Harrold v. Oklahoma*, 169 Fed. 47; *People v. Yeaton*, 75 Cal. 415; *State v. Steeves*, 29 Or. 85; *Morales v. State*, 36 Tex. Crim. 234. These courts argue that to admit in evidence an involuntary and therefore inadmissible confession for the purpose of impeaching the accused is a mere subterfuge, unreasonable and unjust. Because the impeaching evidence shows guilt it is doubtful if the jury will restrict it to its legitimate use of affecting credibility only. As stated in *Shepherd v. State*, *supra* "The object is to get the confession in evidence. It cannot be done directly but it can be done indirectly. It cannot be used to convict but it can be used to contradict and in that way it is used to convict him all the same." Another line of authority holds that an involuntary confession may be used to impeach the accused when the latter testifies, on the ground that by availing himself of the right to testify he thereby submits himself to the same tests of trustworthiness, and the same rules of cross-examination as apply to other witnesses, and the fact that evidence is admissible for one purpose should not exclude it because it would be inadmissible for another purpose. *Commonwealth v. Tolliver*, 119 Mass. 313; *Hicks v. State*, 99 Ala. 169; *State v. Broadbent*, 27 Mont. 342. As a matter of strict legal theory the latter view would seem to be sound, because the involuntary confession is not used as substantive evidence, for the purpose of proving the truth of the facts stated, but rather to show that the accused made inconsistent and contradictory statements—whether they be true or false—which have a bearing on his credibility. Since the accused cannot be compelled to testify at all, yet if he does it is not unfair to require him to submit to the rules governing other witnesses. *Commonwealth v. Bonner*, 97 Mass. 587; *People v. Hickman*, 113 Cal. 80; *People v. Casey*, 72 N. Y. 393; *State v. Beaty*, 25 Mo. App. 214; *Yanks v. State*, 51 Wis. 464; *Boyle v. State*, 105 Ind. 464; *Fitzpatrick v. U. S.*, 178 U. S. 304.

EVIDENCE—JUDICIAL NOTICE OF LOCAL OPTION ELECTION.—In a prosecution for an unlawful sale of liquor under an act providing for the calling of an election in any city or town to determine by majority vote whether the